

'08 CIV 7179 • File
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
NEW YORK, NEW YORK

Chen, Qin A 77-817-472
Chen, Xiu A 77-817-471
Chen, Hui A 77-817-470

Plaintiffs

v.

Civil No.

Michale Chertoff,
Secretary of the United States
Department of Homeland Security;
and
Jonathon Scharfen,
Acting Director of the United States Citizenship and Immigration Services,
Department of Homeland Security;
and
Robert D. Mueller, III,
Director of the Federal Bureau of Investigation,
Department of Justice.

Defendants

**PLAINTIFFS' ORIGINAL COMPLAINT
FOR WRIT IN THE NATURE OF
MANDAMUS**

Plaintiff, by her attorney, Yee Ling Poon, Esq., hereby alleges, upon information and belief, as follows:

INTRODUCTION

1. This action is brought against the Defendants to compel action on an application for application for adjustment of status (INS Form I-485) properly filed by Plaintiffs. The application was filed and remains within the jurisdiction of the Defendants, who have improperly withheld action on said application to Plaintiffs' detriment.

PARTIES

2. Plaintiff Chen, Hui is a 27 year old native and citizen of the People's Republic of China. Plaintiff Chen Xiu is a 25 year old native and citizen of the Peoples' Republic of China. Plaintiff Chen, Qin is a 22 year old native and citizen of the People's Republic of China.
3. They were granted derivative asylee status on December 7, 2000 pursuant to an approved Refugee/Asylee Relative Petition, Form I-730 filed by their mother Chen, Ji Jiao (A 75-564-598). Their mother was granted political asylum on November 16, 1999 under Section 208 pursuant to a determination under the third sentence of section 101(a)(42) (relating to persecution for resistance to coercive population control methods) of the Immigration and Nationality Act as amended by Section 601 of Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Sept. 30, Pub. L. No. 104-208, 110 Stat. 3009 ("the Act").
4. Defendant Michael Chertnoff is Secretary of the Department of Homeland Security (DHS), and this action is brought against him in his official capacity. He is generally charged with enforcement of the Immigration and Nationality Act (INA), and is further authorized to delegate such powers and authority to subordinate employees of the Department of Homeland Security. Pursuant to the provisions of the Homeland Security Act of 2002 (Pub. L. No. 107-296), which was signed into law on November 25, 2002, the functions of the Immigration and Nationality Services of the Department of Justice, and all authorities with respect to those functions, transferred to DHS on March 1, 2003, and the INS was abolished on that date. The transition and savings provisions of the Homeland Security Act, including sections 1512(d) and 1517, provide that references relating to the INS in statutes, regulations, directives or delegations of authority shall be deemed to refer to the appropriate official or component of DHS.
5. Defendant Jonathon Scharfen, is an official of USCIS generally charged with supervisory authority over all operations of the USCIS which adjudicate Plaintiffs' adjustment of Status applications. 8 C.F.R. 103.1(g)(2)(ii)(B).

JURISDICTION

6. Jurisdiction in this case is proper under 28 U.S.C. §§1331 and 1361, 5 U.S.C. §555(b), and the Immigration and Nationality Act and regulations implementing it (Title 8 of the CFR). Relief is requested pursuant to said statutes.
7. Under 28 U.S.C. §1331, "[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." There is jurisdiction under 28 U.S.C. §1331 because this action arises under 28 U.S.C. §1361 (mandamus), the Administrative Procedure Act (APA) (5 U.S.C. §555(b) and 5 U.S.C. §702), and the Immigration and Nationality Act (INA) and regulations implementing it (Title 8 of the CFR).
8. Under 28 U.S.C. §1361, "[t]he district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff."

- 9.. The APA requires USCIS to carry out its duties within a reasonable time. 5 U.S.C. §555(b) states that “[w]ith due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it.” USCIS is subject to 5 U.S.C. §555(b). Plaintiff contends that the delays in processing her application for adjustment of status are unreasonable.
10. Both the regulations and the INA provide numerous examples of duties owed by USCIS in the adjustment of status process. 8 U.S.C. §1103 states that “[t]he Attorney General *shall* be charged with the administration and enforcement of this chapter and all other laws relating to the immigration and naturalization of aliens.” (emphasis added). The Code of Federal Regulations further provides that “[e]ach applicant for adjustment of status under this part *shall* be interviewed by an immigration officer,” 8 C.F.R. §245.6 (emphasis added); and, most importantly, that “the applicant *shall* be notified of the decision of the Director, and, if the application is denied, the reasons for the denial.” 8 C.F.R. §245.2 (emphasis added). The language of the statute and these regulations is mandatory, not discretionary, and requires the Defendants to adjudicate the adjustment of status application.

VENUE

11. Venue is proper in this court, pursuant to 28 U.S.C. §1391(e), in that this is an action against officers and agencies of the United States in their official capacities, brought in the District in which a Defendant maintains her office, and where a substantial part of the events or omissions giving rise to Plaintiffs’ claim occurred. More specifically, Plaintiffs’ application for adjustment of status was properly filed and, to Plaintiffs’ knowledge, remains pending with the USCIS office in this district.

FACTS

12. Plaintiffs are natives and citizens of the People’s Republic of China. Their mother Chen, YI Jiao have been granted political asylum by the U.S. Government. Their mother filed I-730 Refugee Asylee Relative Petitions on their behalf to confer derivative Petitions to them. Their Petitions were approved on March 8, 2001.
13. On December 2, 2002, more than one year and one day later, pursuant to Section 209 of the Act, Plaintiffs filed their I-485 Application to Adjust Status to Permanent Resident Status to USCIS. Their applications have since been pending. They have never been scheduled an interview.
14. On December 22, 2005, USCIS received Plaintiffs’ response to USCIS’ request for evidence. According to the USCIS’ Information System, USCIS will be notified by mail when they make a decision or if they need something from Plaintiffs. No mail ever came.

15. On November 7, 2006, Plaintiffs' attorney wrote a letter to USCIS inquiring about the status of their adjustment applications. There was no response.
16. On April 17, 2007, Plaintiffs inquired in person at the USCIS office at 26 Federal Plaza, New York city. They were told that the applications were still pending.
17. On August 1, 2007, Plaintiffs' attorney wrote again to the USCIS to inquire about the status of their application. There was no response.
18. On December 1, 2007, Plaintiffs' attorney wrote to the USCIS again. Again there was no response.
19. According to information released by the USCIS on May 17, 2007, USCIS was already processing adjustment applications filed on January 1, 2006 at that time. Plaintiffs' applications were filed on December 2, 2002 and their response to the request for evidence was filed on September 22, 2005. Yet they still have not been scheduled for an interview.
20. It has been almost six years since Plaintiffs filed their adjustment applications and three years since they responded to the request for evidence. Plaintiffs still have not been scheduled for an interview or been informed of the status of their application.

EXHAUSTION OF REMEDIES

21. Plaintiffs have exhausted their administrative remedies. They have complied with all the requirements for seeking adjustment of status and have, both personally and through an attorney, made numerous inquiries concerning the status of their applications to no avail.

REQUEST FOR RELIEF COUNT ONE

22. Defendants have willfully and unreasonably delayed and have refused to adjudicate the application for adjustment of status. Plaintiffs' applications for adjustment of status have now remained unadjudicated for approximately six years since the filing of their applications.
23. The delay in adjudicating the application is not attributable to Plaintiffs.
24. Defendants owe Plaintiffs a duty to adjudicate the adjustment of status application and have unreasonably failed to perform that duty. This duty is owed under the INA and regulations, as well as by the fact that by charging a filing fee, USCIS created for itself an obligation to process and adjudicate the application.
25. Defendants have sufficient information to determine Plaintiffs' eligibility pursuant to applicable requirements.

26. Defendants' refusal to act in this case is, as a matter of law, arbitrary and not in accordance with the law. Defendants willfully, and unreasonably, have delayed in and have refused to, adjudicate Plaintiffs' applications for over two years, thereby depriving her of the right to a decision on her status and the peace of mind to which Plaintiffs are entitled.
27. The delay is unreasonable per se.
28. The delay is unreasonable in light of the fact that as of May 18, 2007, USCIS is already processing adjustment application of asylees filed on January 1, 2006, when Plaintiffs applications were filed on December 2, 2002.
29. Plaintiffs have been greatly damaged by the failure of Defendants to act in accord with their duties under the law.
 - a. Plaintiffs cannot travel without a refugee travel document. They cannot use the refugee travel to return to China to visit their grandparents and relatives because it would revealed to the Chinese government that they were asylees in the U.S. They only feel afe traveling when they becomes U.S. citizens. They cannot become citizens until they become permanent residents. The delay in adjudicating her adjustment application operates to the great inconvenience and harassment of Plaintiffs.
 - b. Plaintiffs have further been damaged in that their employment authorization is tied to their status as applicants for permanent residency, and is limited to increments not to exceed one to two years. 8 C.F.R. §274a.12(c)(9). Therefore, as in the case of the advanced parole, Plaintiff has been forced to repeatedly apply (and pay) for extensions of employment authorization, to the continued inconvenience and harassment of Plaintiffs.
 - c. Plaintiffs have further been damaged by simply being deprived of the status of lawful permanent resident during the interminable pendency of their applications.
 - d. Plaintiffs have further been damaged by being made to suffer an unnecessary delay in obtaining all the rights and privileges deriving from U.S. citizenship, including the right to vote and to fully participate in U.S. society. As asylees, they do not feel safe returning to China to see their grandparents and relatives they become U.S. citizens.
30. Defendants, in violation of the Administrative Procedures Act, 5 U.S.C. §701 *et seq.*, are unlawfully withholding or unreasonably delaying action on Plaintiffs' application and have failed to carry out the adjudicative functions delegated to them by law with regard to Plaintiffs' case.
31. Plaintiffs have made numerous status inquiries in an attempt to secure adjudication of

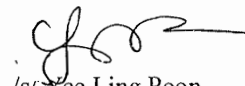
their applications, all to no avail. Accordingly, Plaintiffs have been forced to retain the services of an attorney to pursue the instant action.

1. PRAYER

32. WHEREFORE, in view of the arguments and authority noted herein, Plaintiffs respectfully prays that the Defendants be cited to appear herein and that, upon due consideration, the Court enter an order:

- e. requiring Defendants to adjudicate Plaintiffs' application for adjustment of status;
- f. awarding Plaintiffs reasonable attorney's fees; and
- g. granting such other relief at law and in equity as justice may require.

Respectfully submitted,



/s/ Yee Ling Poon

Yee Ling Poon, Esq.
Law Offices of Yee Ling Poon, PLLC
11 East Broadway, 5th Floor
New York, NY 10038
(212) 385-4575

| Tabs | List of Attachments | Pages |
|------|---|-------|
| | A. Plaintiffs' I-730, Approval Notice..... | 1-4 |
| | B. Receipts of their I-485..... | 5-7 |
| | C. Copies of their I-485, Adjustment of Status..... | 8,9 |
| | D. Copies of letters sent to USCIS and Info Pass for personal inquiries..... | 10-14 |
| | E. CIS processing time sheet..... | 15-18 |

U.S. Department of Justice
Immigration and Naturalization Service

Notice of Action



| | | |
|--|----------------|---|
| RECEIPT NUMBER LIN-01-050-54697 | | CASE TYPE I 730 REFUGEE ASYLEE RELATIVE PETITION |
| RECEIPT DATE December 7, 2000 | PRIORITY DATE | PETITIONER A75 564 598 CHEN, YI JIAO |
| NOTICE DATE March 8, 2001 | PAGE 1 of 1 | BENEFICIARY A77 817 472 CHEN, QIN |
| YEE L. POON LAW OFFICES OF YEE LING POON 11 EAST BROADWAY 5TH FLOOR NEW YORK NY 10038 | | Notice Type: Approval Notice Class: ASY |

Your "Refugee/Asylee Relative Petition" has been approved for the family member(s) listed on this notice, in accordance with Section 208 of the Immigration and Nationality Act, and forwarded to the Department of State. A separate notice will be sent for any person listed on your Form I-730 but not listed on this notice. This completes all INS action on this petition.

The Department of State will notify the U.S. Embassy or Consulate abroad having jurisdiction over the area where your relative(s) resides. The consular post will contact your relative(s) regarding procedures to be followed for travel to the United States.

THIS FORM IS NOT A VISA NOR MAY IT BE USED IN PLACE OF A VISA.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

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U.S. Department of Justice
Immigration and Naturalization Service

Notice of Action



| | | |
|--|----------------|--|
| RECEIPT NUMBER LIN-01-050-54688 | | CASE TYPE I730 REFUGEE ASYLEE RELATIVE PETITION |
| RECEIPT DATE December 7, 2000 | PRIORITY DATE | PETITIONER A75 564 598 CHEN, YI JIAO |
| NOTICE DATE March 8, 2001 | PAGE 1 of 1 | BENEFICIARY A77 817 471 CHEN, XIU |
| YEE L. POON LAW OFFICES OF YEE LING POON 11 EAST BROADWAY 5TH FLOOR NEW YORK NY 10038 | | Notice Type: Approval Notice Class: ASY |

Your "Refugee/Asylee Relative Petition" has been approved for the family member(s) listed on this notice, in accordance with Section 208 of the Immigration and Nationality Act, and forwarded to the Department of State. A separate notice will be sent for any person listed on your Form I-730 but not listed on this notice. This completes all INS action on this petition.

The Department of State will notify the U.S. Embassy or Consulate abroad having jurisdiction over the area where your relative(s) resides. The consular post will contact your relative(s) regarding procedures to be followed for travel to the United States.

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|--|----------------|---|
| RECEIPT NUMBER LIN-01-050-54676 | | CASE TYPE I730 REFUGEE ASYLEE RELATIVE PETITION |
| RECEIPT DATE December 7, 2000 | PRIORITY DATE | PETITIONER A75 564 598 CHEN, YI JIAO |
| NOTICE DATE March 8, 2001 | PAGE 1 of 1 | BENEFICIARY A77 817 470 CHEN, HUI |
| YEE L. POON LAW OFFICES OF YEE LING POON 11 EAST BROADWAY 5TH FLOOR NEW YORK NY 10038 | | Notice Type: Approval Notice Class: ASY |

Your "Refugee/Asylee Relative Petition" has been approved for the family member(s) listed on this notice, in accordance with Section 208 of the Immigration and Nationality Act, and forwarded to the Department of State. A separate notice will be sent for any person listed on your Form I-730 but not listed on this notice. This completes all INS action on this petition.

The Department of State will notify the U.S. Embassy or Consulate abroad having jurisdiction over the area where your relative(s) resides. The consular post will contact your relative(s) regarding procedures to be followed for travel to the United States.

THIS FORM IS NOT A VISA NOR MAY IT BE USED IN PLACE OF A VISA.


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U.S. Department of Justice
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| UNITED STATES OF AMERICA | | |
|--|----------------|--|
| RECEIPT NUMBER LIN-01-253-56392 | | CASE TYPE I 730 REFUGEE ASYLEE RELATIVE PETITION |
| RECEIPT DATE August 30, 2001 | PRIORITY DATE | PETITIONER A75 564 598 CHEN, YI JIAO |
| NOTICE DATE October 22, 2001 | PAGE 1 of 1 | BENEFICIARY A29 811 081 CHEN, TIAN MIN |
| YEE L. POON LAW OFFICES OF YEE LING POON 11 EAST BROADWAY 5TH FLOOR NEW YORK NY 10038 | | Notice Type: Approval Notice Class: ASY |
| <p>Your Refugee/Asylee Relative Petition for the family member(s) listed on this notice has been approved in accordance with Section 208 of the Immigration and Nationality Act. The family member(s) now has asylee status under Section 208 of the above act. The validity of the status for your family member(s) is dependent on the validity of your status. For information regarding eligibility for status as a lawful permanent resident, please contact your local Service Office.</p> <p>The family member(s) is authorized to work in the United States, incident to status. In order to demonstrate authorization, he or she must apply on Form I-765, under Title 8, Code of Federal Regulations, Part 274a.12(a)(5). Please include a copy of this notice with your application for employment authorization.</p> <p>If the family member(s) needs to travel outside the U.S., he/she must file an application for a travel document on Form I-131.</p> <p>THIS FORM IS NOT A VISA NOR MAY IT BE USED IN PLACE OF A VISA.</p> | | |
| Please see the additional information on the back. You will be notified separately about any other cases you filed. | | |
| NEBRASKA SERVICE CENTER U. S. IMMIG. & NATZ. SERVICE P.O. BOX 82521 LINCOLN NE 68501-2521 Customer Service Telephone: 402-323-7830 Form I797A (Rev. 09/07/93)N | |  |

PLEASE TEAR OFF FORM I-94 PRINTED BELOW, AND STAPLE TO ORIGINAL I-94 IF AVAILABLE

Detach This Half for Personal Records

Receipt # LIN-01-253-56392
I-94#

NAME CHEN, TIAN MIN
CLASS ASY

VALID FROM Valid Indefinitely

PETITIONER: CHEN, YI JIAO
136 1 59 AVE APT 2FL
FLUSHING NY 11355

Asylum Status Granted in Pursuant to Section 208 INA.
If you depart the United States, you will need prior
permission to return. EMPLOYMENT AUTHORIZED.

Form I797A (Rev. 09/07/93)N

Receipt Number LIN-01-253-56392
Immigration and
Naturalization Service

I-94

Departure Record


Petitioner: CHEN, YI JIAO

| | | |
|---|--|---------------------------------|
| 14. Family Name CHEN | | 16. Date of Birth 09/25/1956 |
| 15. First (Given) Name TIAN MIN | | |
| 17. Country of Citizenship CHINA, PEOPLE'S REPUBLIC OF | | |

4

U.S. Department of Justice
Immigration and Naturalization Service

Notice of Action

| THE UNITED STATES OF AMERICA | | | |
|---|----------------|---|--|
| RECEIPT NUMBER LIN-03-049-50561 | | CASE TYPE I485 APPLICATION TO ADJUST TO PERMANENT RESIDENT STATUS | |
| RECEIVED DATE December 2, 2002 | PRIORITY DATE | APPLICANT A77 817 472 CHEN, QIN | |
| NOTICE DATE December 3, 2002 | PAGE 1 of 1 | | |
| YEE L. POON LAW OFFICES OF YEE LING POON 11 EAST BROADWAY 5TH FLOOR NEW YORK NY 10038 | | Notice Type: Receipt Notice Amount received: \$ 305.00 Section: Asylee adjustment | |
| <p>The above application or petition has been received. It usually takes 420 to 450 days from the date of this receipt for us to process this type of case. Please notify us immediately if any of the above information is incorrect.</p> <p>We will send you a written notice as soon as we make a decision on this case. You can also use the phone number 402-323-7830 to obtain case status information direct from our automated system 24 hours a day with a touch-tone phone and the receipt number for this case (at the top of this notice).</p> <p>If you have other questions about possible immigration benefits and services, filing information, or Immigration and Naturalization Service forms, please call the INS National Customer Service Center (NCSC) at 1-800-375-5283. If you are hearing impaired, please call our TDD at 1-800-767-1833.</p> <p>If you have access to the Internet, you can also visit the INS at www.ins.usdoj.gov. Here you can find valuable information about forms and filing instructions, and about general immigration services and benefits. At present, this site does not provide case status information.</p> | | | |
| Please see the additional information on the back. You will be notified separately about any other cases you filed. | | | |
| NEBRASKA SERVICE CENTER U. S. IMMIG. & NATZ. SERVICE P.O. BOX 82521 LINCOLN NE 68501-2521 Customer Service Telephone: 402-323-7830 | |  | |

U.S. Department of Justice
Immigration and Naturalization Service

Notice of Action



| | | |
|--|----------------|---|
| RECEIPT NUMBER LIN-03-049-50547 | | CASE TYPE I485 APPLICATION TO ADJUST TO PERMANENT RESIDENT STATUS |
| RECEIVED DATE December 2, 2002 | PRIORITY DATE | APPLICANT A77 817 471 CHEN, XIU |
| NOTICE DATE December 3, 2002 | PAGE 1 of 1 | |
| YEE L. POON LAW OFFICES OF YEE LING POON 11 EAST BROADWAY 5TH FLOOR NEW YORK NY 10038 | | Notice Type: Receipt Notice Amount received: \$ 305.00 Section: Asylee adjustment |

The above application or petition has been received. It usually takes 420 to 450 days from the date of this receipt for us to process this type of case. Please notify us immediately if any of the above information is incorrect.

We will send you a written notice as soon as we make a decision on this case. You can also use the phone number 402-323-7830 to obtain case status information direct from our automated system 24 hours a day with a touch-tone phone and the receipt number for this case (at the top of this notice).

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Please see the additional information on the back. You will be notified separately about any other cases you filed.

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Immigration and Naturalization Service

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| THE UNITED STATES OF AMERICA | | | |
|---|----------------|---|--|
| RECEIPT NUMBER LIN-03-071-51060 | | CASE TYPE I485 APPLICATION TO ADJUST TO PERMANENT RESIDENT STATUS | |
| RECEIVED DATE December 30, 2002 | PRIORITY DATE | APPLICANT A77 817 470 CHEN, HUI | |
| NOTICE DATE December 31, 2002 | PAGE 1 of 1 | | |
| YEE L. POON LAW OFFICES OF YEE LING POON 11 EAST BROADWAY 5TH FLOOR NEW YORK NY 10038 | | Notice Type: Receipt Notice Amount received: \$ 305.00 Section: Asylee adjustment | |
| <p>The above application or petition has been received. It usually takes 450 to 480 days from the date of this receipt for us to process this type of case. Please notify us immediately if any of the above information is incorrect.</p> <p>We will send you a written notice as soon as we make a decision on this case. You can also use the phone number 402-323-7830 to obtain case status information direct from our automated system 24 hours a day with a touch-tone phone and the receipt number for this case (at the top of this notice).</p> <p>If you have other questions about possible immigration benefits and services, filing information, or Immigration and Naturalization Service forms, please call the INS National Customer Service Center (NCSC) at 1-800-375-5283. If you are hearing impaired, please call our TDD at 1-800-767-1833.</p> <p>If you have access to the Internet, you can also visit the INS at www.ins.usdoj.gov. Here you can find valuable information about forms and filing instructions, and about general immigration services and benefits. At present, this site does not provide case status information.</p> | | | |
| <p>Please see the additional information on the back. You will be notified separately about any other cases you filed.</p> <p>NEBRASKA SERVICE CENTER U. S. IMMIG. & NATZ. SERVICE P.O. BOX 82521 LINCOLN NE 68501-2521 Customer Service Telephone: 402-323-7830</p>  | | | |

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and Benefits

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(NCCS)

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Information

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Case Status

Receipt Number: lin0307151060

Application Type: I485, APPLICATION TO REGISTER PERMANENT RESIDENCE
OR TO ADJUST STATUS

Current Status: Response to request for evidence received, and case
processing has resumed.

On September 22, 2005, we received your response to our request for
evidence. We will notify you by mail when we make a decision or if we need
something from you. If you move while this case is pending, call customer
service. You should expect to receive a written decision or written update
within 60 days of the date we received your response unless fingerprint
processing or an interview are standard parts of case processing and have not
yet been completed, in which case you can use our processing dates to
estimate when this case will be done. This case is at our NEBRASKA SERVICE
CENTER location. Follow the link below to check processing dates. You can
also receive automatic e-mail updates as we process your case. Just follow
the link below to register.

You can choose to receive automatic case status updates, which will be sent
via email. Please click [here](#) to create an account online.

If you would like to see our current Processing Dates for Applications and
Petitions, click [here](#).

Note: Case Status is available for Applications and Petitions which were filed
at USCIS Service Centers. If you filed at a USCIS Local Office, your case status
may not be reviewable online but for processing times on forms filed at that
Office please, [click here](#).

If you have a question about case status information provided via this site, or
if you have not received a decision from USCIS within the current processing
time listed, please contact Customer Service at (800) 375 - 5283 or
1-800-767-1833 (TTY).

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12-14-2006 02:25 PM EST

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[Change Of Address](#)

Receipt Number: LIN0304950561

[Services While Your Case is Pending](#)

Application Type: I485, APPLICATION TO REGISTER PERMANENT RESIDENCE OR TO ADJUST STATUS

Current Status: Response to request for evidence received, and case processing has resumed.

[Civil Surgeons](#)

On September 22, 2005, we received your response to our request for evidence. We will notify you by mail when we make a decision or if we need something from you. If you move while this case is pending, call customer service. You should expect to receive a written decision or written update within 60 days of the date we received your response unless fingerprint processing or an interview are standard parts of case processing and have not yet been completed, in which case you can use our processing dates to estimate when this case will be done.

[Processing Times](#)

This case is at our NEBRASKA SERVICE CENTER location. Follow the link below to check processing dates. You can also receive automatic e-mail updates as we process your case. Just follow the link below to register.

[Case Status Online](#)

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You can choose to receive automatic case status updates, which will be sent via email. Please click [here](#) to create an account online.

If you would like to see our current Processing Dates for Applications and Petitions, click [here](#).

Note: Case Status is available for Applications and Petitions which were filed at USCIS Service Centers. If you filed at a USCIS Local Office, your case status may not be reviewable online but for processing times on forms filed at that Office please, [click here](#).

If you have a question about case status information provided via this site, or if you have not received a decision from USCIS within the current processing time listed, please contact the USCIS Customer Service at (800) 375 -- 5283 or 1-800-767-1833 (TTY).

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06-10-2007 02:35 PM EDT

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LAW OFFICES OF
YEE LING POON

潘綺玲 律師樓

Glory China Tower
11 East Broadway, 5th Floor
New York, NY 10038

Tel.: (212) 385-4575
Fax: (212) 385-4792

November 7, 2006

USCIS
Nebraska Service Center
P.O. Box 82521
Lincoln, NE 68501-2521

Re: **Request for Status**

I-485 Application

| | | | |
|-------------|-----------|-------------|------------------|
| Applicants: | CHEN, Qin | A77-817-472 | LIN-03-049-50561 |
| | CHEN, Xiu | A77-817-471 | LIN-03-049-50547 |
| | CHEN, Hui | A77-817-470 | LIN-03-071-51060 |

To Whom It May Concern;

Please be advised that the above-referenced applicants submitted the requested evidence to your office on 09/16/05. As of today, it has been **over one year** and they still have not received any further notices.

Enclosed please find the copy of the Request for Initial Evidence Notices. Please look into this matter and advise us of the status of the above applications as soon as possible.

Thank you for your attention.

Very truly yours,

Yee Ling Poon

YLP/sh
Encl.

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infopass...

<https://infopass.uscis.gov/infopass.php?PHPSESSID=6774163ebb05..>

INFOPASS
Your e-Ticket to Immigration
Information.

Name: **Hui Chen**

Appointment Question about case
Type:

Confirmation NYC-07-44059
No.:

Appointment **April 17, 2007**
Date:

Authentication 2aca
Code:

Appointment **8:45**
Time: **AM**

Location: 26 FEDERAL PLAZA, New York, NY 10278; Room 310

**This is your Confirmation
Number:**



**If you wish to cancel this appointment, you will need the
following Personal Identification Number:**

78146

Please be on time. Failure to show up on time will result in the cancellation of your appointment. You will then need to reschedule your appointment. You will not be admitted more than 15 minutes before your scheduled appointment time.

- You must appear in person and bring photo identification along with this appointment letter.
- Acceptable forms of identification are any of the following: Government issued identification, passport, valid driver's license, I-94, Work Authorization Card, or Permanent Resident Card. (Green Card)
- In order to serve you more efficiently, we require you to bring all applicable immigration forms, letters, receipts, translations and originals of supporting documents.

infopass..

<https://infopass.uscis.gov/infopass.pt>



Name: **Qin Chen**

Appointment Question about case
Type:

Confirmation NYC-07-44063
No.:

Appointment **April 17, 2007**
Date:

Authentication 2acc
Code:

Appointment **10:30**
Time: **AM**

Location: 26 FEDERAL PLAZA, New York, NY 10278; Room 310

**This is your Confirmation
Number:**



**If you wish to cancel this appointment, you will need the
following Personal Identification Number:
98931**

Please be on time. Failure to show up on time will result in the cancellation of your appointment. You will then need to reschedule your appointment. You will not be admitted more than 15 minutes before your scheduled appointment time.

- You must appear in person and bring photo identification along with this appointment letter.
- Acceptable forms of identification are any of the following: Government issued identification, passport, valid driver's license, I-94, Work Authorization Card, or Permanent Resident Card. (Green Card)
- In order to serve you more efficiently, we require you to bring all applicable immigration forms, letters, receipts, translations and originals of supporting documents.

12

LAW OFFICES OF
YEE LING POON

Glory China Tower
11 East Broadway, 5th Floor
New York, NY 10038

潘綺玲 律師樓

Tel: (212) 385-4575
Fax: (212) 385-4192

August 1, 2007

USCIS
Nebraska Service Center
P.O. Box 82521
Lincoln, NE 68501-2521

Request for Status

Re: I-485 Application

| | | | |
|-------------|-----------|-------------|------------------|
| Applicants: | CHEN, Qin | A77-817-472 | LIN-03-049-50561 |
| | CHEN, Xiu | A77-817-471 | LIN-03-049-50547 |
| | CHEN, Hui | A77-817-470 | LIN-03-071-51060 |

To Whom It May Concern:

This office represents the above-referenced applicant. We checked the status online on June 10, 2007 and it indicates that you received our response to your request for evidence on September 22, 2005. It has been **more than 1 year and 8 months** and we have not yet received the decisions on this case.

Please look into this matter and advise us the status as soon as possible.

Thank you for your attention and assistance.

Very truly yours,


Yee Ling Poon

Encl.

LAW OFFICES OF
YEE LING POON

Glory China Tower
11 East Broadway, 5th Floor
New York, NY 10038

潘綺玲 律師樓

Tel.: (212) 385-4575
Fax: (212) 385-4792

December 1, 2007

USCIS
Nebraska Service Center
P.O. Box 82521
Lincoln, NE 68501-2521

2nd Request for Status

Re: I-485 Application

| | | | |
|-------------|-----------|-------------|------------------|
| Applicants: | CHEN, Qin | A77-817-472 | LIN-03-049-50561 |
| | CHEN, Xiu | A77-817-471 | LIN-03-049-50547 |
| | CHEN, Hui | A77-817-470 | LIN-03-071-51060 |

To Whom It May Concern:

Please be advised that we have made an inquiry in Aug. 2007 (see attached.) It has been **over 4 months** and we have not received your response..

Enclosed please find the copy of the Receipt Notice and Request for Status for your reference. Please look into this matter and advise us the status as soon as possible.

Thank you for your attention and prompt response.

Very truly yours,

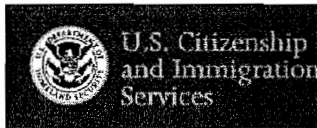


Yee Ling Poon

YLP/sh
Encl.

U.S. Citizenship and Immigration Services - Case Status Service Online

<https://egov.uscis.gov/cris/jsps/Processtimes.jsp?ServiceCenter=NSC>



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U.S. Citizenship and Immigration Services Nebraska Service Center Service Center Processing Dates Posted May 18, 2007

Notice: U.S. Citizenship and Immigration Services (USCIS) has improved the reporting procedure for processing times of immigration benefit applications. In the past, USCIS benefit processing reports indicated the specific type of applications or petitions that were being processed and the date the cases were received. However, the date the case was received did not provide a clear indication of when USCIS expected to complete the case, nor did it provide a clear indication of USCIS' commitment to process cases within a certain cycle time. It also did not align with the processing times and cycle times the agency reports in other contexts.

This improved reporting procedure is an effort to give our customers more accurate information that better reflects current processing time and USCIS service level commitments. Effective immediately, when we are completing applications and petitions within our service level goals we will report that as the processing time. For example, when our service level goal is to process a particular kind of case within six months, and if our processing time is six months or less, we will show a date consistent with our service level goal because that reflects our commitment.

When we are not meeting our service level goal, the date posted will reflect the filing date of cases that are being completed. It should be noted that while in some instances reported processing dates may appear to have regressed due to this change, they do not reflect a lengthening of USCIS processing times, but simply the change in reporting. Our goal is to provide accurate projections and thus give customers clear expectations as to what they can expect as a processing time.

There are several important exceptions to the processing times shown below:

- Case processing will be delayed if we must ask you for more evidence or information.
If we ask for missing required initial evidence, count the processing time from when we receive that missing evidence.
- The case processing timeframe will start over if a customer doesn't appear for an interview or asks that it be rescheduled.

What if I have a problem or have questions about a case?

We offer a variety of services after you file. For example, for most kinds of cases you can [check the status of your case online](#).

For more information about when and how to contact us, whether your case is outside our processing time or if there are other issues, please see our fact sheet –

[Case Services - How do I... know what kind of services are available to me after I file my application or petition?](#)

One additional point about these projections. They are the time to complete processing and mail the actual notice and/or document. If you check case status online and see that your case has been approved, and you haven't yet

U.S. Citizenship and Immigration Services - Case Status Service Online

<https://egov.uscis.gov/cris/jsps/Processtimes.jsp?ServiceCenter=N>

received your approval notice or document in the mail, we ask that you wait thirty days from the approval date before contacting us. That is because it may take that long before it is returned to us as undeliverable. You can also print the case status online answer for your records.

Service Center Processing Dates for **Nebraska Service Center** Posted May 18, 2007

| | | | |
|-------|---|---|-------------------|
| | | | |
| I-90 | Application to Replace Permanent Resident Card | Initial issuance or replacement | November 06, 2006 |
| I-90 | Application to Replace Permanent Resident Card | 10-year renewal | August 21, 2005 |
| I-90A | Application to Replace Permanent Resident Card | Initial issuance or replacement for Special Agricultural Workers (SAW) | April 14, 2006 |
| I-102 | Application for Replacement/Initial Nonimmigrant Arrival/Departure Record | Initial issuance or replacement of a Form I-94 | February 12, 2007 |
| I-129 | Petition for A Nonimmigrant Worker | H-1B - Specialty occupation - Visa to be issued abroad | May 14, 2006 |
| I-129 | Petition for A Nonimmigrant Worker | H-1B - Specialty occupation - Change of status in the U.S. | May 14, 2006 |
| I-129 | Petition for A Nonimmigrant Worker | H-1B - Specialty occupation - Extension of stay in the U.S. | May 14, 2006 |
| I-129 | Petition for A Nonimmigrant Worker | H-2A - Temporary workers | April 30, 2007 |
| I-129 | Petition for A Nonimmigrant Worker | H-2B - Other temporary workers | April 15, 2007 |
| I-129 | Petition for A Nonimmigrant Worker | H-3 - Temporary trainees | May 14, 2006 |
| I-129 | Petition for A Nonimmigrant Worker | L - Intracompany transfers | April 15, 2007 |
| I-129 | Petition for A Nonimmigrant Worker | Blanket L | May 14, 2006 |
| I-129 | Petition for A Nonimmigrant Worker | O - Extraordinary ability | May 14, 2006 |
| I-129 | Petition for A Nonimmigrant Worker | P - Athletes, artists, and entertainers | May 14, 2006 |
| I-129 | Petition for A Nonimmigrant Worker | Q - Cultural exchange visitors and exchange visitors participating in the Irish Peace process | May 14, 2006 |
| I-129 | Petition for A Nonimmigrant Worker | R - Religious occupation | May 14, 2006 |
| I-129 | Petition for A Nonimmigrant Worker | TN - North American Free Trade Agreement (NAFTA) professional | May 14, 2006 |
| I-131 | Application for Travel Document | Permanent resident applying for a re-entry permit | January 16, 2007 |
| I-131 | Application for Travel Document | Refugee or asylee applying for a refugee travel document | January 16, 2007 |
| I-131 | Application for Travel Document | Haitian Refugee Immigrant Fairness Act (HRIFA) principal applying for advance parole | February 12, 2007 |
| I-131 | Application for Travel Document | Haitian Refugee Immigrant Fairness Act (HRIFA) dependent applying for advance parole | August 14, 2006 |

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U.S Citizenship and Immigration Services - Case Status Service Online

<https://egov.uscis.gov/cris/jsps/Processtimes.jsp?ServiceCenter=NS>

| | | | |
|--------------|--|---|--------------------|
| I-131 | Application for Travel Document | All other applicants for advance parole | February 12, 2007 |
| I-140 | Immigrant Petition for Alien Worker | Extraordinary ability | September 06, 2006 |
| I-140 | Immigrant Petition for Alien Worker | Outstanding professor or researcher | November 04, 2006 |
| I-140 | Immigrant Petition for Alien Worker | Multinational executive or manager | July 24, 2006 |
| I-140 | Immigrant Petition for Alien Worker | Schedule A Nurses | August 22, 2006 |
| I-140 | Immigrant Petition for Alien Worker | Advanced degree or exceptional ability | August 25, 2006 |
| I-140 | Immigrant Petition for Alien Worker | Advanced degree or exceptional ability requesting a National Interest Waiver | June 29, 2006 |
| I-140 | Immigrant Petition for Alien Worker | Skilled worker or professional | September 25, 2006 |
| I-140 | Immigrant Petition for Alien Worker | Unskilled worker | October 20, 2006 |
| I-212 | Application for Permission to Reapply for Admission into the U.S. After Deportation or Removal | Readmission after deportation or removal | May 15, 2006 |
| I-360 | Petition for Amerasian, Widow(er), or Special Immigrant | All other special immigrants | November 13, 2006 |
| I-485 | Application to Register Permanent Residence or to Adjust Status | Employment-based adjustment applications | August 13, 2006 |
| I-485 | Application to Register Permanent Residence or to Adjust Status | Based on grant of asylum more than 1 year ago | January 01, 2006 |
| I-485 | Application to Register Permanent Residence or to Adjust Status | Based on refugee admission more than 1 year ago | September 17, 2006 |
| I-485 | Application to Register Permanent Residence or to Adjust Status | Under the Haitian Refugee Immigrant Fairness Act (HRIFA) | November 13, 2006 |
| I-485 | Application to Register Permanent Residence or to Adjust Status | Under the Indochinese Adjustment Act | August 06, 2006 |
| I-539 | Application to Extend/Change Nonimmigrant Status | Change of status to H or L dependents | February 05, 2007 |
| I-539 | Application to Extend/Change Nonimmigrant Status | Change status to the F or M academic or vocational student categories | February 05, 2007 |
| I-539 | Application to Extend/Change Nonimmigrant Status | Change Status to the J exchange visitor category | February 05, 2007 |
| I-539 | Application to Extend/Change Nonimmigrant Status | All other change of status applications | February 05, 2007 |
| I-539 | Application to Extend/Change Nonimmigrant Status | Extension of stay for H and L dependents | February 05, 2007 |
| I-539 | Application to Extend/Change Nonimmigrant Status | Extension of Stay for F or M academic or vocational students | February 05, 2007 |
| I-539 | Application to Extend/Change Nonimmigrant Status | Extension of Stay for J exchange visitors | February 05, 2007 |
| I-539 | Application to Extend/Change Nonimmigrant Status | All other extension applications | February 05, 2007 |
| I-612 | Application for Waiver of the Foreign Residence Requirement | Application for a waiver of the 2-year foreign residence requirement based on exceptional hardship or persecution | December 07, 2006 |

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U.S Citizenship and Immigration Services - Case Status Service Online

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| | | | |
|--------------|---|---|--------------------|
| I-730 | Refugee/Asylee Relative Petition | Petition for accompanying family members of a refugee or an asylee | July 12, 2006 |
| I-751 | Petition to Remove the Conditions on Residence | Removal of lawful permanent resident conditions (spouses of U.S. citizens and lawful permanent residents) | September 22, 2006 |
| I-765 | Application for Employment Authorization | Based on an approved asylum application [(a)(5)] | April 09, 2007 |
| I-765 | Application for Employment Authorization | Based on a request by a qualified F-1 academic student. [(c)(3)] | February 26, 2007 |
| I-765 | Application for Employment Authorization | Based on a pending asylum application [(c)(8)] | April 09, 2007 |
| I-765 | Application for Employment Authorization | Based on a pending I-485 adjustment application [(c)(9)] | February 26, 2007 |
| I-765 | Application for Employment Authorization | All other applications for employment authorization | February 26, 2007 |
| I-817 | Application for Family Unity Benefits | Voluntary departure under the family unity program | November 13, 2006 |
| I-824 | Application for Action on an Approved Application or Petition | To request further action on an approved application or petition | September 22, 2006 |

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| | | | | | |
|--|--|--|--|---------------------------|--|
| citibank | | PERSONAL MONEY ORDER | | 120137841 | |
| CitiBank, N.A. FC#00765 FA# 029 043-02 Ck. Ser.# 120137841 | | \$5.00 ONL PIC | | DATE 06/25/08 | |
| HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK | | HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK | | 62-20 311 | |
| PAY ***THREE HUNDRED FIFTY DOLLARS*** | | *****350.00***** | | Security Features on Back | |
| TO THE ORDER OF Clerk of Court | | PURCHASER'S SIGNATURE <i>Chen T. Chen</i> | | MP | |
| NOT GOOD FOR MORE THAN \$1,000.00 | | MEMO | | ADDRESS | |
| CitiBank, N.A., One Penn's Way New Castle, DE 19720 | | | | | |
| 120137841 | | 10311002091 | | 38762924 | |

ORIGINAL-WHITE DUPLICATE-YELLOW TRIPLICATE-PINK
RECEIPT FOR PAYMENT
UNITED STATES DISTRICT COURT
for the
SOUTHERN DISTRICT OF NEW YORK
E 659697

RECEIVED FROM

at
Yee Ling Poon
08cv7179(DLC)

Fund
6855XX Deposit Funds
604700 Registry Funds
508800 General and Special Funds
085000 Immigration Fees
086900 Attorney Admission Fees
322340 Filing Fees
322350 Sale of Publications
322360 Copy Fees
143500 Miscellaneous Fees
322380 Interest
322386 Recoveries of Court Costs
121000 Restitution to U.S. Government
129900 Conscience Fund
504100 Gifts
613300 Crime Victims Fund
510000 Unclaimed Monies
510100 Civil Filing Fee (%)
510100 Registry Fee

Checks and drafts are accepted subject to collection and full credit will only be given when the check or draft has been accepted by the financial institution on which it was drawn.

DATE: 20 Cash Check M.O. Credit

STUDENT LOANS (EXCL VETERANS)
[] 153 RECOVERY OF OVERPAYMENT OF VETERANS BENEFITS
[] 160 STOCKHOLDERS SUITS
[] 190 OTHER CONTRACT
[] 195 CONTRACT PRODUCT LIABILITY
[] 196 FRANCHISE
[] 360 PRODUCT LIABILITY
[] 360 OTHER PERSONAL INJURY
[] 385 PROPERTY DAMAGE
[] 385 PROPERTY DAMAGE
[] 385 PRODUCT LIABILITY
[] 710 FAIR LABOR STANDARDS ACT
[] 720 LABOR/MGMT RELATIONS
[] 730 LABOR/MGMT REPORTING & DISCLOSURE ACT
[] 740 RAILWAY LABOR ACT
[] 790 OTHER LABOR LITIGATION
[] 791 EMPL RET INC SECURITY ACT
[] 510 MOTIONS TO VACATE SENTENCE
[] 530 HABEAS CORPUS
[] 535 DEATH PENALTY
[] 540 MANDAMUS & OTHER
[] 550 CIVIL RIGHTS
[] 555 PRISON CONDITION
[] 441 VOTING
[] 442 EMPLOYMENT
[] 443 HOUSING
[] 444 ACCOMMODATIONS
[] 444 WELFARE
[] 445 AMERICANS WITH DISABILITIES - EMPLOYMENT
[] 446 AMERICANS WITH DISABILITIES - OTHER
[] 440 OTHER CIVIL RIGHTS

ACTIONS UNDER STATUTES

REAL PROPERTY
[] 210 LAND CONDEMNATION
[] 220 FORECLOSURE
[] 230 RENT LEASE & EJECTMENT
[] 240 TORTS TO LAND
[] 246 TORT PRODUCT LIABILITY
[] 290 ALL OTHER REAL PROPERTY

CIVIL RIGHTS
[] 441 VOTING
[] 442 EMPLOYMENT
[] 443 HOUSING
[] 444 ACCOMMODATIONS
[] 444 WELFARE
[] 445 AMERICANS WITH DISABILITIES - EMPLOYMENT
[] 446 AMERICANS WITH DISABILITIES - OTHER
[] 440 OTHER CIVIL RIGHTS

PRISONER PETITIONS

[] 861 MIA (1395FF)
[] 862 BLACK LUNG (923)
[] 863 DIWC (405(g))
[] 863 DIWW (405(g))
[] 864 SSID TITLE XVI
[] 865 RSI (405(g))
[] 870 TAXES
[] 871 IRS-THIRD PARTY 20 USC 7609

SOCIAL SECURITY

FEDERAL TAX SUITS

OTHER STATUTES

[] 400 STATE REAPPORTIONMENT
[] 410 ANTITRUST
[] 430 BANKS & BANKING
[] 450 COMMERCE/ICC RATES/ETC
[] 460 DEPORTATION
[] 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)
[] 480 CONSUMER CREDIT
[] 490 CABLE/SATELLITE TV
[] 810 SELECTIVE SERVICE
[] 850 SECURITIES/COMMODITIES/EXCHANGE
[] 875 CUSTOMER CHALLENGE 12 USC 3410
[] 891 AGRICULTURE ACTS
[] 892 ECONOMIC STABILIZATION ACT
[] 893 ENVIRONMENTAL MATTERS
[] 894 ENERGY ALLOCATION ACT
[] 895 FREEDOM OF INFORMATION ACT
[] 900 APPEAL OF FEE DETERMINATION UNDER EQUAL ACCESS TO JUSTICE
[] 950 CONSTITUTIONALITY OF STATE STATUTES
[] 890 OTHER STATUTORY ACTIONS

8 CIV 7179

endorsement of the filing and service of process of court. This form, approved by the Clerk of Court for the purpose of

AUG 12 2008

Michael Chertoff, Secretary of Homeland Security
Johnathon Scharfen, Acting Director of the UCIS
Robert D Mueller, III, Director of the FBI, Dept. of Justice

KNOWN)

BRIEF STATEMENT OF CAUSE)

U.S.C. §§ 555(b) and 702, and the Immigration

Previously Assigned

& Case No.

ACTIONS UNDER STATUTES

TY

BANKRUPTCY

[] 422 APPEAL 28 USC 158
[] 423 WITHDRAWAL 28 USC 157

NS

PROPERTY RIGHTS

[] 820 COPYRIGHTS
[] 830 PATENT
[] 840 TRADEMARK

SOCIAL SECURITY

FEDERAL TAX SUITS

Check if demanded in complaint:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.? IF SO, STATE:

DEMAND \$ OTHER JUDGE DOCKET NUMBER

Check YES only if demanded in complaint
JURY DEMAND: ☐ YES ☒ NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(SEE REVERSE)